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Legal Implication on Supreme Court Decision that Conclude Contract of Work has a *Lex Specialis* Principle from the Local Taxes and Retributions Act 2009 towards Local Government Finance

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Abstract

The Contract of Work between the Government of Indonesia and mining companies has the nailed down tax obligations, which means that the mining companies only pay taxes that are stipulated at the time when the Contract of Work was signed. A legal issue arose when the Local Taxes and Retributions was enacted in 2009 which did not exclude Contract of Work mining companies from imposing local taxes. In several provinces, the tax dispute arose when the Local Government imposed local taxes on the mining companies under the Contract of Work based on the Local Taxes and Retributions Act. The pattern of dispute settlement process from those issues was carried out until the case review process by the Supreme Court. The decision on the case review stated that the Contract of Work was valid as a *lex specialis* of the Local Taxes and Retributions Act with consideration: there was a recommendation from the House of Representatives in the formation of a Contract of Work and the Letter of the Minister of Finance No. 1032/MK.04/1988. The method that will be used in this study is the normative juridical method, referring to written legal materials in the form of primary, secondary, and tertiary legal materials which are specifically related to local taxes and absolute tax theory. The result of this research concluded that the Supreme Court decision was not conformable with tax law principles and absolute tax theory. Furthermore, considering the *erga omnes* principle of the Administrative Court System that the Tax Court is beneath the scope, the decision implies the other local government that cannot collect local taxes from mining companies under Contract of Work.

Keywords: Contract of Work, Local Taxes, Absolute Tax Theory.

INTRODUCTION

Indonesia is a country with abundant natural resources. One the kinds of Indonesia's natural resources is the wealth of mining materials which include: gold, silver, copper, oil and natural gas, coal, and others. In managing the wealth of mining materials, there is a legal instrument that regulates the parties who will manage and exploit mining materials in the territory of Indonesia. One of the legal instruments in the management of mining materials in the territory of Indonesia is the Contract of Work that appears in Basic Mining Provisions Act Number 11 1967. Contract of Work regulated in Basic Mining Provisions Act 1967, is a legal contract between the Government of Republic Indonesia and the foreign companies or a joint venture between foreign companies and private national companies (in

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Vol. 10 No. 2 (2022)
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the framework of foreign investment) in the context of mineral exploration and exploitation by referring to the Foreign Investment Act and Basic Minerals Provisions Act. The legal relationship that occurs in the Contract of Work is a legal relationship in the private sector between the Government of Republic Indonesia and mining companies that has an element of foreign investment, with the object of agreement in the form of exploration and exploitation of mining materials in the territory of Indonesia for about 30 years since commercial production is carried out by mining companies and can be extended.

In the Contract of Work between the Government of Republic Indonesia and mining companies that have foreign investment elements, there is a nailed down fiscal provision clause. Here, take an example of the nailed down clause in the Contract of Work between the Government of Republic Indonesia and PT. Newmont Nusa Tenggara was formed in 1986. The clause in the fiscal provisions says that PT. Newmont Nusa Tenggara is not obliged to pay taxes, duties, levies, and charges which are not regulated when the Contract of Work is signed. Departing from this clause, a legal issue then arose when the enactment of the Local Taxes and Retribution Act 2009 which attributed the authority of Local Governments to collect local taxes based on local regulation, whereas in the substance of the Local Tax and Retribution Act 2009 and the relevant local regulation does not stipulate exemptions from the imposition of local taxes on mining companies under Contracts of Work.

The dispute between PT. Newmont Nusa Tenggara and Nusa Tenggara Barat Province are based on the interpretation of the legal basis used to collect local taxes. The Government of Nusa Tenggara Barat Province bases the collection of Vehicle Tax on heavy equipment based on the Local Taxes and Retributions Act 2009, while PT. Newmont Nusa Tenggara feels that its tax obligations only apply to the types of taxes regulated in the Contract of Work, which was not included in the tax obligation from the Local Taxes and Retributions Act 2009. The dispute then continued until the case review process in the Supreme Court. In the Tax Court, it was stated that the collection of Vehicle Tax carried out by the Government of Nusa Tenggara Barat Province was legally valid, but on the contrary, the Supreme Court stated that PT. Newmont Nusa Tenggara was subject to the

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provisions of the Contract of Work which has a *lex specialis* principle from the Local Taxes and Retributions Act 2009, so it cannot be subject to local taxes based on the Local Taxes and Retributions Act 2009. The Supreme Court based this argument on the following considerations: the presence of a recommendation from the House of Representatives when forming a Contract of Work as mandated by Article 10 of the Basic Mining Provisions Act 1967 and the existence of the Minister of Finance's Letter No. 1032/MK.04/1988 which stated that the Contract of Work has the nature of *lex specialis* which can deviate from any act of parliament (Putusan Mahkamah Agung No.37/B/PK/PJK/2015). The legal disputes with the same pattern also occurred in Papua Province. This time, the Provincial Government of Papua faced PT. Freeport Indonesia objected to the calculation of the Surface Water Tax rate. The Provincial Government of Papua bases the calculation rate on the Surface Water Tax based on the rules regulated in the Local Taxes and Retributions Act 2009, while PT. Freeport Indonesia feels bound by the Contract of Work which is subject to the tax provisions stipulated at the time the Contract of Work was signed. The process of tax disputes settlement between PT Freeport Indonesia and the Provincial Government of Papua is very similar to the local tax dispute between the Provincial Government of Nusa Tenggara Barat and PT Newmont Nusa Tenggara. The Supreme Court in the reconsideration decision stated that there is a doctrine that the Contract of Work is a *lex specialis* from the Local Taxes and Retributions Act 2009.

Departing from the previous description, this paper will discuss the conformability of the Supreme Court's decision which states the Contract of Work as *lex specialis* of the Local Taxes and Retributions Act 2009 from absolute tax theory, as well as the legal implications of this decision on local government finances.

METHODOLOGY

The method used in this paper is a normative research method, namely a legal research method by collecting and analyzing secondary data (Soerjono Soekanto, 2015, p.12). Through this research method, the approach that will be used in this paper is a normative juridical approach that is descriptive-analytical. In general, in this study, the author will explore and analyze the conception of tax collection in Indonesia which must be

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regulated by law, the theory of justification for tax collection by the state along with other laws and regulations related to taxation. Then, the author will analyze the problem of the lex specialis statement of the Contract of Work from the Local Taxes and Retributions Act 2009 which is specifically contained in the Supreme Court Decision No.37/B/PK/PJK/2015. From this decision, the author will analyze it with the theory of justification for tax collection by the state, especially the absolute tax theory and tax laws and regulations so that conclusions will be found that answer the identification of problems in this study.

Furthermore, in particular, the author will use secondary data in the form of primary legal materials, namely: the Basic Mining Provisions Act 1967, the Civil Code, the Tax Court Act, the State Administrative Court Act, and the Local Taxes and Retributions Act 2009. Primary, there are also secondary legal materials in the form of legal literature and dictionaries, and other sources as tertiary legal materials. The author will collect data using document studies and data analysis techniques by reviewing and analyzing norms in-laws and regulations which are then linked to cases of tax imposition disputes based on the Local Taxes and Retributions Act 2009 between Local Governments and mining companies under Contract of Work.

RESULTS AND DISCUSSION

The Conception of Tax Collection that Must Be Regulated in Act of Parliament

The conception of tax collection by the state can be viewed from various fields of science, one of them is legal science. The legal approach to tax, focuses on a legal binding that arises from the act of parliament between the state represented by the government as a tax collector and the taxpayer (Rochmat Soemitro, 2010, p.22-23). Legal binding as one of the elements in a tax law science is a legal relationship between the state and citizens, which arises because of the law (act of parliament) so that both citizens and residents should submit a predetermined amount of money by law to the state treasury without any direct counter-achievement from the state. Through this approach from legal science, it is emphasized that taxes must be collected based on the law to create legal certainty for the tax authorities as tax collectors and taxpayers (Dewi Kania et.al, 2020, p.4).

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Coercive tax collection without any direct counter-achievement is a matter that can be a burden to the community at large, therefore the source of law that forms the basis of state authority through the government to collect taxes must be regulated by an act of parliament. Through the act of parliament, the types of subjects, objects, and conditions that form the substance of tax collection arrangements are not the will of the government alone, but here there is the will of the people represented by the House of Representatives to approve a tax law. Therefore, it can be assumed that when the tax law is enacted, the people are considered not only to know the existence of the tax law but also to agree that they are being taxed. Article 23A of the 1945 Constitution of the Republic of Indonesia also explicitly mandates that coercive tax collections must be regulated in act of parliament.

In line with the conception of tax collection that must be regulated in act of parliament, there is a theory that explains why the state has a justification for tax collection, namely the theory of devotion or also known as the theory of absolute tax liability. This theory is based on the concept that the state as an organischerstaat-leer gives justification to the state's right to oblige something to citizens, such as paying taxes (Dewi Kania et.al, 2020, p.10). Organischerstaatleer understanding is a term that developed in state science as a science that examines why the state exists as an abstract and general conception that is present in society (Soehino, 2005, p.7). The notion of the state as an organischerstaatleer is a concept that emphasizes the principle of collectivism, where individuals cannot live without the state as an organization that will protect its citizens. Tax payments from citizens are a service to the state as an organization of power, where these citizens want to participate in state financing through tax payments (Dewi Kania et.al, 2020, p.12)

As a form of correlation between the purpose of legal certainty in tax collection by the state and justification for tax collection by the state in its nature as an organischestaatsleer which is a fact that people cannot live without a state as an organization, the obligation to collect taxes by an act of parliament is a logical consequence considering the nature and the essence of the act of parliament itself as a source of law. Acts of parliament are statutory laws established by the House of Representatives together with the President. The norms contained in the act of parliament are general, abstract, and written norms, in the sense that

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legal rights and obligations are stipulated to apply to legal subjects in general, unless there are certain exceptions in the substance of the law (Jimly Asshidiqie, 2006, p.9-10). The role of legislative power in the formation of laws is very fundamental to provide material legal validity to the law (act of parliament). In the framework of a law-based democracy like Indonesia, where sovereignty rests with the people, the role of the House of Representative which has the authority to make laws is a manifestation of the people's sovereignty to regulate or make rules (regeling) that will ultimately apply to the people (Jimly Asshidiqie, 2006, p.11). This is an integral correspondence between the will of the people in regulating themselves through laws and the absolute obligation that arises to obey the orders of the law as is the organischestaatsleer nature of a state.

Looking at the Local Taxes and Retributions Act 2009 as one of the laws in the field of taxation, tax collection by the state can be further divided into the institutions that collect it. In this case, the collection of taxes by the state based on the collection agency is carried out by the Central Government and Local Governments. The subject and object of tax collected by the Local Government are determined in a limitation stipulation by the Local Taxes and Retributions Act 2009, while the general provisions of the tax collection act and tax dispute resolution procedures are regulated in General Provisions and Tax Procedures Act 1983 as amended several times, the latest by Harmonization of Tax Regulations Act 2021 and Tax Courts Act 2002. The Local Taxes and Retribution Act 2009 is a law that aims to balance local finances which will later be used by the Local Government to finance the implementation of local governance

The scheme of tax provisions regulated in the Contract of Work clause is a nailed down scheme which means that all requirements regarding rights and obligations have been agreed upon before mining activities starting from research, exploration, to production (Nabila Zulfa Humaira, 2017, p.2). The provisions in such a clause are often found in long-duration foreign investment contracts. The purpose of the formation of such a clause is to eliminate the impact arising from a national economic policy after the signing of a contract that can affect the economic value of the business activities carried out (Pamungkas Hudawanto, 2010, p.9). In summary, mining investors need high legal certainty over their

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Vol. 10 No. 2 (2022)
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rights and obligations (eg taxes, duties, and other levies) during the investment period. The same thing has been reinforced by provisions regarding income tax (PPh) and value-added tax and luxury goods tax (PPNBM), wherein the second amendment to Income Tax Act (Act Number 10 of 1994) and the second amendment to Value Added Tax and Luxury Goods (Act Number 11 of 1994), in the substance of that law it is stipulated that the mining company under a contract of work is subject to tax rates based on the Taxation Law in force at the time the contract of work is signed, or in other words, The Income and The Value-Added and Luxury Goods tax rates for companies holding Contract of Work have not changed. This is not contained in the Local Taxes and Retributions Act 2009.

If we examined carefully, the substance of the Local Taxes and Retributions Act 2009 does not find any provisions that exclude mining companies under contracts of work from being subject to local taxes. However, the Local Government may exclude mining companies under contracts of work from being subject to regional taxes based on the respective local regulations. This is because the Local Taxes and Retributions Act 2009 only regulates limitedly what types of taxes can be collected by the Local Government, and the Local Government may not collect certain types of regional taxes based on local policies as outlined in local regulations. In the context of the case between the Nusa Tenggara Barat Provincial Government and PT. Newmont Nusa Tenggara, the Nusa Tenggara Barat Provincial Regulation on Local Taxes also does not exclude mining companies under contracts of work from imposing local taxes. So it can be concluded that the construction of laws and regulations regarding Local Tax in the Province of Nusa Tenggara Barat does not exclude mining companies under contracts of work from the imposition of local taxes based on the Local Taxes and Retributions Act 2009.

Legal Reason in the Supreme Court Decision Declaring the Contract of Work as Lex Specialis of the Local Taxes and Retributions Act 2009

In the Supreme Court Review Decision which declared the Contract of Work as *lex specialis* of the Local Taxes and Retributions Act 2009, the Judges of the Supreme Court in their legal considerations based that the Contract of Work has a *lex specialis* principle because on the recommendation of the House of Representatives in the formation of the

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Vol. 10 No. 2 (2022)
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Contract of Work and related departments and a Letter of Intent from Minister of Finance Number S-1032/MK.04/1988 dated December 15, 1988. In connection with that statement, the principle of *lex specialis* is an ancient legal principle derived from Roman law, which is used to find the law if there is a conflict in an order norm (Nurfaqih Irfani, 2020, p.314). It is undeniable that in a legal system consisting of more than thousands of regulations, there are provisions in the regulations that deviate from the previously existing regulations, but the provisions of the regulations that deviate from that have specificity in the event referred to by the regulation, therefore it is used reasoning on the principle of *lex specialis derogat legi generali* when there are special norms that deviate from general norms (Purnadi Purbacaraka, 1983, p.8). The use of the *lex specialis derogat legi generali* principle in reasoning cannot be reckless. Bagir Manan added, in using the principle of *lex specialis derogat legi generali*, at least one must pay attention to the following:

The provisions contained in the general regulation remain in effect unless specifically regulated in special regulation. Special provisions (*lex specialis*) must be equivalent in the hierarchy to the general provisions (*lex generalis*). For example, an act of parliament by an act of parliament, and Special provisions (*lex specialis*) must be in the same legal sphere (regime) as general provisions (*lex generalis*). For example, the Commercial Code is a lex *specialis* of the Civil Code because it is within the same legal sphere, namely civil law (Bagir Manan, 2004, p.56).

Departing from that description, the Contract of Work was declared as *lex specialis* based on the recommendations of the House of Representative in its formation and the Letter of the Minister of Finance Number S- 1032 / MK.04 /1988 dated December 15, 1988, is not following the reasoning for the application of the *lex specialis* principle. This is because, first, a Contract of Work is an agreement that has a legal status that is not equal to the act of parliament. Second, the Letter of the Minister of Finance Number S-1032/MK.04/1988 dated December 15, 1988, states that the Contract of Work is a *lex specialis* of the Taxation Law, which is a legal act of state administration (*beschikking*) that is not equal to the act of parliament. Third, on the recommendation of the House of Representative at each formation of a Contract of Work, this does not necessarily make the

Jurnal Hukum Replik
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Vol. 10 No. 2 (2022)
Submit:12/04/2022 Revised: 28/09/2022 Published: 10/10/2022

position of the Contract of Work equal to the act of parliament. In the study of legislation, acts of parliament are a group of legal norms that are under the *grondwet* (Maria Farida Indrati, 2007, p.51). An act of parliament at least has three meanings, namely:

In a material sense, they contain provisions which are bound in general or the whole community (*algemeen verbindende voorschiften*); In the formal sense, which is in their formation have received mutual approval between the Government and the House of Representative; and In the sense of a documented legal text, which is announced in the State Gazette to have the character of being evidence (*bewijsbaar*) and stable as a unit of reference (Jimly Asshidiqie, 2006, p.142).

As a comparison, to find out whether the Contract of Work is on an equal footing with the act of parliament so that the principle of *lex specialis derogat legi generali* reasoning can be applied, a reference will be taken in the contract of work system under Australian law system. One of the conditions for forming a contract of work in Australia is that it requires parliamentary ratification (Salim HS, 2007, p.140). The ratification carried out by the Australian parliament is intended to give the government as the executive power holder the legal power to bind itself to the agreement, especially considering that often the provisions in the Contract of Work deviate from the provisions contained in the act of parliament as a general provision. No wonder the nomenclature in the Contract of Work in Australia is like an act of parliament, for example, the Broken Hill Proprietary Company's Indenture Act 1937-1940 (Salim HS, 2007, p.140). In Indonesia, referring to Article 10 in the Basic Mining Provisions Act 1967, the Contract of Work made by the parties does not need to be ratified by the House of Representative, the government only consults the House of Representative.

The Nature of Erga Omnes Principle in the State Administrative Court System

The tax dispute resolution process is principally a dispute resolution process carried out through an administrative court process. Historically, the settlement of tax disputes for the first time existed during the Dutch East Indies period. Through *Raad van Beroep voor Belastingzaken Staatsblaad* 1917 No.707 to *Regeling van het beroep in Belatingzaken*, proofing that the tax dispute resolution process has been regulated during the Dutch East Indies

Jurnal Hukum Replik
Universitas Muhammadiyah Tangerang
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Vol. 10 No. 2 (2022)
Submit:12/04/2022 Revised: 28/09/2022 Published: 10/10/2022

period. The existence of the Tax Advisory Council (Majelis Pertimbangan Pajak) which was formed during the Dutch East Indies period remained in effect until the tax reform in 1983. In 1986, with the enactment of the State Administrative Court Act 1986, the decision of the Tax Advisory Council could be filed with the Administrative Court until the cassation process to the Supreme Court. Considering that, at that time the Tax Advisory Council decision was not considered a final decision and was considered a state administrative decision (*beschikking*). Furthermore, in 1994, with the amanded of the General Provisions and Tax Procedures Act 1983, it was emphasized that the Tax Advisory Council decision was final. Then in 1997, the Tax Advisory Council was replaced with the Tax Dispute Settlement Agency (Badan Penyelesaian Sengketa Pajak) which has the same nature as the Tax Advisory Council, which that the decision is final, and the institution is not under the judicial institution. (Dewi Kania et.al, 2020, p.208 -210). In 2002, with the enactment of the Tax Court Act, it was stated that the Tax Court exercised judicial power for taxpayers or tax insurers seeking justice in tax disputes. Through these provisions, the Tax Court is now a judicial institution under the Supreme Court. Even the position of the Tax Court is now categorized as a special court or specialization within the state administrative court. Judging from the development of the regulation of the tax dispute settlement agency, it can be seen that the juridical settlement of tax disputes is a process of administrative or state administrative disputes.

One of the characteristics of state administrative courts is that there is an *erga omnes* principle in its decision, which means that the decision does not only apply to the disputing parties but also applies to parties outside the dispute being litigated (Zairin Harahap, 2014, p.56). The enforceability of the decision is binding on the public. Likewise with tax disputes, considering that the Tax Court is a special court or specialization in the state administrative court environment. Therefore, the Supreme Court's judicial review decision stating that the Contract of Work is a *lex specialis* of the Local Taxes and Retributions Act 2009 may apply to other parties, in particular to the mining companies under Contracts of Work in Indonesia which may be exempt from local taxation based on Local Taxes and Retributions Act 2009. Based on this statement, a similar case also occurred between PT Freeport Indonesia and the Papua Provincial Government. The dispute that occurs is a dispute

Jurnal Hukum Replik
Universitas Muhammadiyah Tangerang
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Vol. 10 No. 2 (2022)
Submit:12/04/2022 Revised: 28/09/2022 Published: 10/10/2022

regarding the surface water tax (Pajak Air Permukaan) which is based on the Local Taxes and Retributions Act 2009. The Supreme Court in the legal considerations of the judicial review decision between PT. Freeport Indonesia and the Papua Provincial Government stated that it was bound by the *lex specialis* doctrine of the Contract of Work so that the Contract of Work could exclude itself from the imposition of local taxes based on the Local Taxes and Retributions Act 2009.

The Weakening of the Local Government Finances

Since the reformation that amended the Constitution of Republic Indonesia, one of the important elements mandated by the reformation was the strengthening of local autonomy. In strengthening the local autonomy, some pillars support it to achieve that thing. The pillars of local autonomy consist of power-sharing, local government revenue sharing, and local administration independence (Ni'matul Huda, 2018, p.360)

Regarding mining regulations in Indonesia, in the course of the process, the management of mining materials in the territory of Indonesia has changed. This is marked by the Minerals and Coal Act 2009 (UU Minerba) which replaced the Basic Mining Provisions Act 1967 after approximately 40 years of validity. Through the Minerals and Coal Act, the mining rights utilization system in Indonesia has changed, from the previous contract format to the format of the permit. The permits in Minerals and Coals Act are: People's Mining Permits (Izin Pertambangan Rakyat), Mining Business Permits (Izin Usaha Pertambangan), and Special Mining Business Permits (Izin Usaha Pertambangan Khusus). However, the Contract of Work that existed before the enactment of the Minerals and Coals Act is still valid until the expiration of the contract period, provided that the Contract of Work must adjust the refining provisions that must be carried out domestically, submit the activity plan, and deposit the profits obtained. Now, a lot of mining companies under Contracts of Work have turned into mining companies under Mining Business Permits or Special Mining Business Permits, although there are still several mining companies that are still operating under Contracts of Work. Based on data compiled by the Ministry of Energy and Mineral Resources, currently, there are 31 mining companies holding Contracts of Work, mining companies holding Coal Mining Concession Work

Jurnal Hukum Replik
Universitas Muhammadiyah Tangerang
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Vol. 10 No. 2 (2022)
Submit:12/04/2022 Revised: 28/09/2022 Published: 10/10/2022

Agreements amounting to 66, mining companies holding Mining Business Permits 5,285, and mining companies holding Special Mining Business Permits amounting to 4, MODI (esdm.go.id), 2021).

The Local Taxes and Retributions Act 2009 is a law within the scope of local financial management. Since the beginning of the reform era that demands strengthening local government autonomy, the Local Government Act 1999 and Financial Balance between the Central and Local Governments Act 1999 have been enacted. Through these provisions, the delegation of authority is increasingly broad to the Local Government as an effort to increase the effectiveness and efficiency of the implementation of its functions (Harys Pratama Teguh, 2019, p.266). In the beginning, it was explained that the local government authority was all of the government authority, except for matters of foreign policy, security, defense, judiciary, national monetary and fiscal affairs, and religion, which belong to the Central Government. The broad scope of government authority carried out by the Local Government is not accompanied by the financial capacity of the Local Government. Supposedly, the financial resources submitted to the regions must be proportional to the duties and responsibilities assigned to the regions to regulate and manage their government authority (Harys Pratama, Teguh, 2019, p.311). Departing from this, in the course of post-reform local autonomy, the Local Government Law has been amended several times. Now through Act Number 23 of 2014 concerning Local Government, government authority carried out by Local Governments has become clearer through the classification of a government authority. From the classification of government authority, regional financing arrangements are made based on the principle of decentralization. The implementation of the principle of decentralization can refer to concurrent government authority which are the basis for the implementation of local autonomy. Local financing arrangements based on the principle of decentralization are carried out at the expense of the Local Revenue and Expenditure Budget. Through this, the Local Government is given the authority to collect taxes/levies, provide revenue sharing, and financial assistance as a source of funds for the Local Revenue and Expenditure Budget (Harys Pratama Teguh, 2019, p.115). The role of local taxes as a source of funds for the Local Revenue and Expenditure Budget is very important compared to the National Revenue and Expenditure Budget allocation of funds to

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Universitas Muhammadiyah Tangerang
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Vol. 10 No. 2 (2022)
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local governments. Through the capacity and capability of local governments to collect local taxes, local governments can be more independent in determining and using Local Revenue and Expenditure Budget. In short, the Local Government in designing the Local Revenue and Expenditure Budget must first determine the basic assumptions of regional income. In this case, through the Local Taxes and Retributions Act, the Local Government is given the certainty of which types of taxes can be collected by it. After determining the basic assumptions of regional income, the Local Government then budgets regional expenditures which of course leads to the quality of public services to achieve regional prosperity. Empirically, the provincial government has local revenue originating from local taxes with the highest ratio compared to other sources of regional income.

CONCLUSIONS

Based on what has been described in the previous section, the author concludes that the Supreme Court's judicial review decision which states the Contract of Work as *lex specialis* of the Local Taxes and Retributions Act 2009 is not following the absolute tax theory. The absolute tax theory is in line with the conception of tax collection which must be regulated in act of parliament. In the Local Taxes and Retributions Act 2009 along with the Nusa Tenggara Barat act on Regional Taxes, there are no provisions that exclude mining companies under Contract of Work from local taxes. In addition, in Supreme Court legal considerations, the Judges based on the recommendation of the House of Representatives in the formation of the Contract of Work and the Letter of the Minister of Finance Number 1032/MK.04/1988 so that the Contract of Work has as a *lex specialis* principle from Local Taxes and Retributions Act 2009. This is erroneous reasoning. The Contract of Work, both formally and materially, cannot be said to be an act of parliament or has an equal hierarchy with an act of parliament. Furthermore, the Letter of the Minister of Finance Number 1032/MK.04/1988 is a legal act of state administration that is not equivalent to the act of parliament. In addition, the Supreme Court's review decision stating the contract of work as *lex specialis* of the Local Taxes and Retributions Act 2009 could be weakening the local autonomy considering the *erga omnes* nature of the Tax Court which is within the scope of the State Administrative Court. Strengthening local autonomy as widely

Jurnal Hukum Replik
Universitas Muhammadiyah Tangerang
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Vol. 10 No. 2 (2022)
Submit:12/04/2022 Revised: 28/09/2022 Published: 10/10/2022

as possible is intended to accelerate the realization of community welfare through service improvement, empowerment, and community participation in the implementation of local government. The more complex things are governance carried out by the Local Government, must be in line with the strength of local finances. With the enactment of the Local Taxes and Retributions Act which also strengthens the joints of regional income and independence in utilizing the potential it has, it can be utilized by the Local Government in whose territory there is a mining operation area to explore more potential regional income.

The recommendation from this writing is, although currently through the Minerals and Coals Act the form of mining rights for mining companies has turned into a form of licensing, Contracts of Work that have been in effect before the Minerals and Coals Act are still declared valid. The Central Government as the party that approved the Contract of Work should renegotiate with the mining company that is still in the form of a Contract of Work to turn into a mining company with a Mining Business Permit or a Special Mining Business Permit. This is because, in the Mining Business Permit and Special Mining Business Permit, the tax provisions for mining companies follow the prevailing tax regulations.

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